IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 17052 of 2004

Between:
Inavolu Prasanna Kumar, S/o.Jani Babu,
R/o.5-155, High School road, Opp: Navata Road Transport, New Gajuwaka, Visakhapatnam.

..... PETITIONER

AND
1 Municipal Commissioner, Gajuwaka Municipality,
Visakhapatnam.
2 Town Planning Officer, Gajuwaka Municipality, Gajuwaka, Visakhapatnam.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in attempting to interfere with the petitioner's possession by trying to demolish the shed situated in D. No. 27-8-4/1, Vadlapudi village in S. No. 129/2, Assessment No. 10880-42754, Srinagar Road, Gajuwaka, Visakhapatnam, without issuing any notice nor giving me an opportunity of being heard as illegal, arbitrary, unjust, capricious, apart from violative of principles of natural justice and consequently direct the respondents not to interfere with his peaceful possession and enjoyment of the said land along with the parking shelter in Survey No. 129/2, Assessment No. 10880-42754, D.No. 27-8-4/1, Vadlapudi Village, Srinagar road, Gajuwaka, Visakhapatnam without following due process of law

Counsel for the Petitioner:MR.C.S.SURYA PRAKASH RAO

Counsel for the Respondents: MR.DANTU.SRINIVAS

The Court, at the stage of admission, made the following :
ORDER:

The petitioner, who is the owner of a building bearing Door No.27-8-4/, Srinagar road, Vadlapudi village, Gajuwaka, Visakhapatnam, states that on his request, an extent of 97 sq.yards, belonging to the Government, which is an odd bit, was alienated to him, by the Collector, through his proceedings in R.C.No.2860/99/E2, dated 23.10.2002. Accordingly, he paid a sum of Rs.1,45,500/- towards the land value and since then he is in possession and enjoyment of the same. While so, some of the local people, who are hand in glove with the respondents, and having political support and muscle power, are trying to take possession of the said land. It is also stated that some people who are purported to be the officials of the respondents, came to the land of the petitioner and tried to interfere with his possession and demolish the same. In view of the same, the petitioner moved this Court by way of the present writ petition.

In ***MOHAN PANDY V. USHA RANI RAJGARIA***[1]**,** the Supreme Court held as under:

> "It has been repeatedly held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged.....
>
> The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly."

Therefore, if a third party is interfering with the possession of the petitioner, the proper remedy for him is to move the competent Civil

Court or lodge a complaint with the police, as the case may be.

I see no grounds to entertain the writ petition. The writ petition is accordingly dismissed. No costs.

A. GOPAL REDDY, J

September 23rd , 2004

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To

1 The Municipal Commissioner, Gajuwaka Municipality, Visakhapatnam.

2 The Town Planning Officer, Gajuwaka Municipality, Gajuwaka, Visakhapatnam.

3 Two CD copies.

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 17052 of 2004

23rd SEPTEMBER, 2004

[1] AIR 1993 SC 1225